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EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

Inventory of all international human rights standard-setting activities

Report of the Secretary-General prepared in accordance with Commission on Human Rights resolution 1994/19

Introduction

1. In its resolution 1994/19, entitled "The effective functioning of bodies established pursuant to United Nations Human Rights Instruments", the Commission on Human Rights requested the Secretary-General to prepare an inventory of all international human rights standard-setting activities in order to facilitate better informed decision-making.

2. Since no single established procedure exists for the preparation of international instruments in the field of human rights 1/ and because the Commission on Human Rights has been explicit in requesting an inventory of all human rights standard-setting activities (emphasis added), the Secretary-General, in the preparation of this report, has made a particular effort to be as comprehensive as possible. The report is confined, however, to the work and activities that fall under the purview of the Commission on Human Rights.

1/ See United Nations Action in the Field of Human Rights (1988) (ST/HR/2/Rev.3), p. 310, para. 10.

GE.94-75098 (E)

3. The present report has been prepared in accordance with the above request. It consists of three parts: ongoing standard-setting activities by the Commission on Human Rights; standard-setting activities proposed by the Commission on Human Rights; standard-setting activities proposed or conducted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

I. STANDARD-SETTING ACTIVITIES ALREADY EMBARKED UPON BY THE COMMISSION ON HUMAN RIGHTS

Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms

4. By decision 1984/116 of 16 March 1984, the Commission on Human Rights decided to establish an open-ended working group to draft a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms. This decision was approved by the Economic and Social Council in its decision 1985/152 of 30 May 1985. So far the Working Group has held nine sessions. At its last session in 1994, the report of which can be found in document E/CN.4/1994/81 and Corr.1, the Working Group decided to begin the second reading of the draft declaration. The first reading text of the draft declaration, as amended in the course of the second reading at the ninth session of the Working Group, may be found in annex I to the above-mentioned report.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

5. By decision 1992/43 of 3 March 1992, the Commission on Human Rights decided to establish an open-ended inter-sessional working group of the Commission on Human Rights in order to elaborate a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, using as a basis for its discussion the draft text proposed by the Government of Costa Rica (see E/CN.4/1994/66) and to consider the implications of its adoption and the relationship between the draft optional protocol, regional instruments and the Committee against Torture. This decision was approved by the Economic and Social Council in its resolution 1992/6 of 20 July 1992. During its second session, in 1993, report of which can be found in document E/CN.4/1994/25 and Add.1, the Working Group considered the first reading of the draft optional protocol. The outcome of the first reading of articles 1-7 can be found in the annex to the above mentioned report.

Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography as well as the basic measures needed for their prevention and eradication

6. By its resolution 1994/90 of 9 March 1994, the Commission on Human Rights decided to establish an open-ended inter-sessional working group of the Commission on Human Rights responsible for elaborating, as a matter of priority and in close cooperation with the Special Rapporteur and the

Committee on the Rights of the Child, guidelines for a possible draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication. By resolution 1994/9 of 22 July 1994, the Economic and Social Council approved this decision. The first session of the working group took place from 14 to 25 November 1994.

Optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts

7. By its resolution 1994/91 of 9 March 1994, the Commission on Human Rights decided to establish an open-ended inter-sessional Working Group of the Commission on Human Rights to elaborate, as a matter of priority, a draft optional protocol to the Convention on the Rights of the Child using as one basis for its discussions the preliminary draft optional protocol submitted by the Committee on the Rights of the Child (E/CN.4/1994/91, annex). This decision was approved by the Economic and Social Council in its decision 1994/10 of 22 July 1994. The first session of the working group took place from 31 October to 11 November 1994.

II. STANDARD-SETTING ACTIVITIES PROPOSED BY THE COMMISSION ON HUMAN RIGHTS

Optional protocol to the International Covenant on Economic, Social and Cultural Rights granting the right of individuals or groups to submit communications concerning non-compliance with the Covenant

8. By its resolution 1994/20 of 1 March 1994, the Commission on Human Rights invited the Committee on Economic, Social and Cultural Rights to report to the Commission on Human Rights at its fifty-first session on the steps taken for the drafting of an optional protocol to the International Covenant on Economic, Social and Cultural Rights granting the right of individuals or groups to submit communications concerning non-compliance with the Covenant.

Draft declaration on indigenous people

9. By its resolution 1994/29 of 4 March 1994, the Commission on Human Rights urged the Sub-Commission to complete its consideration of the draft declaration and to submit to the Commission on Human Rights at its fifty-first session the draft declaration together with any recommendation thereon.

Basic principles and guidelines on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms

10. By its resolution 1994/35 of 4 March 1994, the Commission on Human Rights recommended that the Sub-Commission take measures to examine the basic principles and guidelines proposed by the Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms with a view to making proposals thereon and report to the Commission.

Internally displaced persons

11. By its resolution 1994/68 of 9 March 1994, the Commission on Human Rights invited the representative of the Secretary-General on internally displaced persons to make suggestions and recommendations with regard to ways and means, including the institutional aspects, of providing adequate and effective protection of and assistance to internally displaced persons.

Draft principles and guidelines for the protection of the heritage of indigenous people

12. In its decision 1994/105 of 4 March 1994, the Commission on Human Rights decided to endorse the request of the Sub-Commission to the Special Rapporteur to expand her study on the protection of the cultural and intellectual property of indigenous people with a view to elaborating draft principles and guidelines for the protection of the heritage of the indigenous people and to submit a preliminary report to the Sub-Commission at its forty-sixth session.

Third optional protocol to the International Covenant on Civil and Political Rights on the right to a fair trial and a remedy

13. In its decision 1994/107 of 4 March 1994, the Commission on Human Rights decided to consider at its fifty-first session the final report of the Special Rapporteurs of the Sub-Commission on the right to a fair trial, including, if appropriate, the desirability of a third optional protocol to the International Covenant on Civil and Political Rights, aimed at guaranteeing under all circumstances the right to a fair trial and a remedy, taking into account the consideration of the Sub-Commission thereon at its forty-sixth session.

III. STANDARD-SETTING ACTIVITIES PROPOSED OR CONDUCTED BY THE SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Human rights and the environment

14. In its resolution 1994/27 of 26 August 1994 the Sub-Commission recommended to the Commission on Human Rights that a special rapporteur on human rights and the environment be appointed with a mandate, inter alia, to seek comments on the draft principles on human rights and the environment annexed to the final report of the Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/1994/9) and to make recommendations regarding the draft.

Draft United Nations declaration on the rights of indigenous people

15. By its resolution 1994/45 of 26 August 1994, the Sub-Commission decided to adopt the draft United Nations declaration on the rights of indigenous people agreed upon by members of the Working Group on Indigenous Populations and to submit the draft declaration to the Commission on Human Rights at its fifty-first session with the request that it consider the draft as expeditiously as possible.

Declaration of Minimum Humanitarian Standards

16. By its resolution 1994/26 of 26 August 1994, the Sub-Commission, having considered at its forty-third session the Declaration of Minimum Humanitarian Standards, adopted by a group of experts at a meeting in Turku (Abo) Finland, in December 1990, (E/CN.4/Sub.2/1991/55), decided to transmit the text of the Declaration of Minimum Humanitarian Standards to the Commission on Human Rights and recommended that the Commission examine the Declaration with a view to its further elaboration and eventual adoption.

Basic principles and guidelines on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms

17. By its decision 1994/104 of 2 August 1994, the Sub-Commission decided to establish a sessional working group on the administration of justice and the question of compensation. The working group, inter alia, discussed the principles and guidelines proposed by the Special Rapporteur (E/CN.4/Sub.2/1993/8).

18. By its resolution 1994/33 of 2o August 1994, the Sub-Commission decided to continue at its forty-seventh session the consideration of the basic principles and guidelines proposed by the Special Rapporteur in his study on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms with a view to making substantive progress in the matter.

Third optional protocol to the International Covenant on Civil and Political Rights on the right to a fair trial and a remedy

19. By its resolution 1994/35 of 26 August 1994, the Sub-Commission endorsed the useful summary of norms and interpretations embodied in the draft body of principles on the right to a fair trial and a remedy (E/CN.4/Sub.2/1994/24, annex II) and believed it beneficial to consider the draft body of principles. It recommended to the Commission on Human Rights to consider at its fifty-second session the establishment of an open-ended working group to draft a third optional protocol to the International Covenant on Civil and Political Rights aiming at guaranteeing under all circumstances the right to a fair trial and a remedy.

Draft international convention on housing rights

20. In its resolution 1994/38 of 26 August 1994, the Sub-Commission took note with interest of the draft international convention on housing rights contained in the second progress report of the Special Rapporteur on the right to adequate housing (E/CN.4/Sub.2/1994/20), and invited States, United Nations specialized and other agencies, international and regional intergovernmental organizations, and non-governmental and community-based organizations to provide the Special Rapporteur with their views and comments on all aspects of the right to adequate housing, in particular the draft international convention on housing rights, for consideration in the preparation of his final report.

Guidelines on international events and forced evictions

21. By its resolution 1994/39 of 26 August 1994, the Sub-Commission requested the Secretary-General in accordance with paragraph 172 of his analytical report (E/CN.4/1994/20), to prepare a series of guidelines on international events and forced evictions.

Convention on the Prevention and Punishment of the Crime of Genocide, drafting and adoption of a control mechanism in the form of a treaty committee

22. By its resolution 1994/11 of 25 August 1994, the Sub-Commission recommended that the Commission on Human Rights request the General Assembly to consider with high priority, with a view to its adoption, the draft statute for an international criminal court that had been submitted to it by the International Law Commission aiming in particular at the punishment of genocide. In the same resolution, it requested the States parties to the Convention on the Prevention and Punishment of the Crime of Genocide, by virtue of the faculty granted to them by article VIII of the Convention on the Prevention and Punishment of the Crime of Genocide, to encourage - or even undertake - the drafting and adoption of a control mechanism in the form of a treaty committee charged in particular with monitoring compliance of States parties with the commitments which they undertook in accordance with article V of the Convention, through the assessment of the reports submitted by the States parties. Also in the same resolution, the Sub-Commission decided to examine the conditions under which the Convention could be improved by including a clause concerning universal jurisdiction in order to take into account the international character of this crime and also to study the possibility of extending its application, which has until now been limited to ethnic, racial or religious genocide, to political genocide.